

**TOWN OF BEAUX ARTS VILLAGE
ORDINANCE NO. 356**

**AN ORDINANCE OF THE TOWN OF BEAUX ARTS VILLAGE, WASHINGTON
IMPOSING A MORATORIUM ON THE TOPPING OR REMOVAL OF TREES
ON PRIVATE PROPERTY IN THE TOWN OF BEAUX ARTS VILLAGE.**

WHEREAS, the Town of Beaux Arts Village (“Town”) is fortunate to be sited among a large number of trees; and

WHEREAS, the trees provide stability to slopes, help control runoff into Lake Washington, and provide natural beauty to the Town; and

WHEREAS, trees on the public right-of-way and other public property are protected by state statute; and

WHEREAS, the Council of the Town wishes to complete work done to review, evaluate, and determine the need for the regulation of trees on private property without the threat of significant topping or removal of trees during the evaluation period; and

WHEREAS, the Town held a public hearing at a regular meeting of the Council on April 15, 2008 to give residents ample opportunity to comment on the proposed moratorium; and

WHEREAS, the Council believes, as a result of that public hearing, that it is prudent to establish a moratorium for a period not to exceed three (3) months; and

WHEREAS, the Town Council plans to use this time to complete its study of the topping or removal of trees and may develop regulations or guidelines to manage trees on private property; and

WHEREAS, the Council has developed a work plan for completing this work and enacting any regulations that it determines are needed; and

WHEREAS, the Council recognizes that during this moratorium there may be a need to remove trees on private property when same creates an immediate and imminent danger to persons or property; **NOW THEREFORE**,

BE IT ORDAINED BY THE COUNCIL OF THE TOWN OF BEAUX ARTS VILLAGE, WASHINGTON, AS FOLLOWS:

Section 1. Moratorium established. The Council of the Town of Beaux Arts Village hereby establishes a moratorium upon the topping or removal of any living coniferous tree, evergreen tree, madrone tree, oak tree or big leaf maple tree with a diameter of twelve inches or greater inches measured at a height of four and one-half (4 ½) feet above the surrounding

ground surface and located on private property ("Protected Tree") in the Town of Beaux Arts Village.

Section 2. Exceptions. A Protected Tree may be removed only under one of the following exceptions:

- 2.1. The removal is necessary to remedy an immediate and imminent danger to persons or property; or
- 2.2. The tree poses a danger to persons or property as shown by a report written by a certified arborist and filed with the Town Clerk, and the removal is approved in writing by the Building Official or his/her representative; or
- 2.3. An applicant for a building permit demonstrates:
 - 2.3.1 the tree is within the footprint of a proposed building for which a building permit has been issued; or,
 - 2.3.2 the tree would become hazardous by the construction of the permitted building.Approval for the removal of a Protected Tree will only be given in conjunction with a building permit.

Section 3. Mitigation. Whenever a Protected Tree is legally removed pursuant to the exceptions listed in Section 2 of this ordinance, the applicant shall meet the following requirements:

- 3.1 The applicant shall provide a tree mitigation plan that will result in a replacement ratio of one tree planted for each tree removed.
- 3.2. Mitigation trees shall be a minimum of eight (8) feet tall and have a full, well-developed crown of foliage.
- 3.3. Mitigation requirements must be met within 6 months of the tree removal. In the case of concurrent new construction, mitigation requirements must be met before final inspection. Trees planted as mitigation must be maintained with adequate water and care to survive a three-year warranty period or be replaced.
- 3.4. Trees planted as mitigation shall be one of the Protected Tree species, or other native tree, as agreed upon by the Town.

Section 4. Penalty. The penalty for topping, intentionally damaging or removing a protected tree shall be as follows:

- 4.1 If the tree has a diameter of at least one foot but less than three feet (measured at 4 ½ feet above the ground surface), the fine shall be \$10,000 per tree.

4.2 If the tree has a diameter of at least three feet or greater (measured....), the fine shall be \$25,000 per tree.

4.3 In addition to the fines listed in 4.1 and 4.2 above, the penalty shall include the cost to enforce collection of this fine and the cost of replacing the affected tree with a similar tree.

Section 5. Duration. This moratorium shall be in effect for three (3) months and shall expire on July 15, 2008 unless the Council passes legislation to end the moratorium sooner.

Section 6. Work Plan. During the moratorium, the following work shall take place.

6.1 The Council will complete its study of the topping or removal of trees and evaluate the need for regulations or guidelines for managing trees on private property by doing the following:

- 6.1.1 Reviewing the recommendations regarding the need to regulate trees on private property from the Planning Commission and the Tree Committee.
- 6.1.2 Discussing those regulations and the procedures used to enforce them with officials or staff of the Town.
- 6.1.3 Determining which regulations, if any, may be needed in the Town based on these discussions and personal observations.
- 6.1.4 Evaluating the unintended consequences that may result from the enactment of any proposed regulations.
- 6.1.5 Establishing the need, costs, and benefits of any proposed regulations.

6.2 The Council may choose to form an ad hoc committee to assist in any or all of the tasks listed in 6.1.1 through 6.1.5.

Section 7. Recitals and Findings of fact Incorporated. The recitals set forth on page 1 of this Ordinance are incorporated herein as though fully set forth herein and shall serve as Findings of Fact. The Town Council may amend such findings in whole or in part and adopt additional findings following a public hearing.

Section 8. Severability and Validity. If any section, paragraph, clause, or phrase of this ordinance is for any reason held to be unconstitutional or invalid, such decision shall not affect the validity of the remaining portions of this ordinance. The Town Council hereby declares that it would have passed this ordinance and each section, paragraph, subsection, clause or phrase thereof irrespective of the fact that any one or more sections, paragraphs, clauses, or phrases subsequently may be found by competent authority to be unconstitutional or invalid.

Section 9. Effective Date. Based on the recitals and findings of facts set forth herein, this ordinance shall constitute a public emergency ordinance necessary for the protection of public health, safety, property and/or peace and shall become effective upon passage and approval.

PASSED BY THE COUNCIL OF THE TOWN OF BEAUX ARTS VILLAGE and
signed in authentication of its passage on the 15th day of April, 2008.

John Rose, Mayor

ATTEST:

APPROVED AS TO FORM:

Sue Ann Spens, Clerk-Treasurer

Wayne Stewart, Town Attorney

I certify that copies of the above ordinance were posted as required by law in the Town of
Beaux Arts Village, Washington, on the ____th day of _____, 2008

Sue Ann Spens
Clerk-Treasurer